

May 16, 2013

The Honorable Andrew M. Cuomo
Governor of the State of New York
Executive Chamber
New York State Capitol Building
Albany, NY 12224

Dear Governor Cuomo,

As Governor, you have been a national leader standing up for forward-looking criminal justice reforms. In this year's State of the State address, you demonstrated this commitment by stating that "fairness and integrity form the foundation of our justice system, and confidence in the legitimacy of the system is essential to maintaining the rule of law."

I am writing to seek your assistance to restore confidence in our state's criminal justice system. In light of a series of overturned convictions, it has been reported that the administration of Kings County District Attorney Charles Hynes is conducting an internal review of at least 50 murder cases allegedly tainted by a disgraced detective, Louis Scarcella, who used questionable practices that sent wrongfully convicted individuals to prison.

Specifically, I request that you exercise your authority to grant the New York State Attorney General or another special prosecutor, a referral to conduct an independent review of the dozens of questionable prosecutions that have recently come under scrutiny, including the 50 cases involving Mr. Scarcella. There is precedent for the government to appoint a special prosecutor to investigate potential wrongdoing. Furthermore, Section 63(3) and Section 63(8) of the State's Executive Law authorizes the Governor to grant the Attorney General the power to criminally investigate or prosecute individuals for suspected criminal misconduct, and to "inquire into matters concerning the public peace, public safety and public justice" through the use of civil subpoena power.

Among many recent cases involving allegations of serious official misconduct by the District Attorney's Office, two in particular highlight the need to engage the Attorney General in an independent review:

The Ranta Case

In one case prosecuted by District Attorney Hynes, a judge ordered the release of defendant David Ranta after he spent more than 20 years in prison for a murder he probably did not commit. It has since come to light that the detective who reportedly coached a witness in that case – Mr. Scarcella – played a key role in several other convictions that have since come under question, prompting the Office's internal review.

According to the *New York Times*, this detective reportedly fabricated confessions, let informants out of jail to consort with sex workers, and admitted to using one crack-addicted prostitute as an eyewitness in at least six different cases. However, culpability cannot be confined to a single rogue investigator. Throughout this case, the District

Attorney fought against Mr. Ranta's release for nearly 20 years, despite evidence of prosecutorial misconduct.

The Collins Case

In a separate wrongful conviction case, a federal judge recently called the conduct of one of District Attorney Hynes' lawyers "horrific" and said that he was "disturbed" and "puzzled" that the D.A. did not sanction him for pursuing a murder case for years that also ended up being overturned.

It has become clear that considering this troubling pattern of official misconduct and wrongful convictions, District Attorney Hynes is not capable of conducting a truly independent review of his own cases. However, the Attorney General's first-of-its-kind Conviction Review Bureau is well positioned to review cases involving allegations of misconduct by prosecutors and law enforcement – cases a District Attorney may well be reluctant to investigate thoroughly or independently, especially after many years of fighting appeals. Alternatively, a special prosecutor unconnected to the District Attorney's Office would be able to review the integrity of these cases with a fresh set of eyes.

Internal conviction integrity units can only maintain their integrity when they are used to correct mistakes such as eyewitness misidentifications and false confessions. As Kings County District Attorney, I would insist on the only appropriate approach to cases involving wrongful convictions premised on serious allegations of police and prosecutorial misconduct: independent review.

Thank you for your consideration, and for your lifelong commitment to maintaining the confidence of the people of New York State in the integrity of our criminal justice system.

Sincerely,

Kenneth Thompson
Attorney, Kings County District Attorney Candidate